

Jessica L. Blome
Cal. Bar No. 314898
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
(510) 900-9502
jblome@greenfirelaw.com

Scott Edwards
NY Bar No. 3001575
Animal Wellness Action
611 Pennsylvania Ave., S.E. #136
Washington, D.C. 20003
(443) 865-3600
sedwards@animalwellnessaction.org
Pro hac vice application forthcoming

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF CALIFORNIA;
GAVIN C. NEWSOM, in his Official
Capacity as Governor of California;
KAREN ROSS, in her Official Capacity
as Secretary of the California
Department of Food & Agriculture;
ERICA PAN, in her Official Capacity
as Director of the California Department
of Public Health; and ROB BONTA, in
his Official Capacity as Attorney
General of California,

Defendants.

Case No.: 2:25-cv-06230-MCS-AGR

**MEMORANDUM OF LAW IN
SUPPORT OF THE CENTER FOR
A HUMANE ECONOMY AND
ANIMAL WELLNESS ACTION'S
MOTION TO INTERVENE**

The Honorable Mark C. Scarsi
Date & Time of Hearing:
October 27, 2025, 9:00 a.m.
Location: Courtroom 7C, 7th Fl.

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1 **I. Introduction**

2 The Center for a Humane Economy and Animal Wellness Action have been
3 frequent and consistent voices in litigation surrounding Proposition 12 and its sister
4 law Massachusetts' Question 3, including, but not limited to, arguments on federal
5 preemption of state law. As described below, Proposed Intervenor present special
6 and particular interests, expertise, and experience on state regulation of intensive
7 animal confinement and the harms to public health, worker safety, and consumer
8 health that flow from these inhumane commercial practices.
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11 Proposed Intervenor are entitled to intervene as a matter of right under
12 Federal Rule of Civil Procedure 24. Proposed Intervenor's motion for leave to
13 intervene is timely, and Proposed Intervenor have demonstrated through
14 consistent and persistent involvement in similar litigation that they have
15 significantly protectable interests that will not be adequately represented by
16 existing parties and that will be impaired should Proposition 12 fall. In the
17 alternative, Proposed Intervenor meet the standards for permissive intervention
18 under Rule 24 as well.
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22 **II. Background**

23 **A. Relevant Californian legislative history through Proposition 12.**

24 California is the fourth largest economy in the world today. It also produces
25 more food in total—though fruit, vegetables, meat, nuts, dairy, and eggs—than any
26 other U.S. state.
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1 Due to growing public concerns about the negative impacts of intensive
2 confinement of farm animals, California voters passed Proposition 2 in 2008 to, in
3 the Legislature’s own words, “protect California consumers from the deleterious[]
4 health, safety, and welfare effects of the sale and consumption of eggs derived
5 from egg-laying hens that are exposed to significant stress and may result in
6 increased exposure to disease pathogens including salmonella.” Cal. Health &
7 Safety Code, § 25995(e). In relevant part,¹ Proposition 2 required that farmers in-
8 state provide egg-laying hens enough room to turn around freely, lie down, stand
9 up, and fully extend limbs. *Id.* at § 25990 (2008). The state’s implementing
10 regulations required 0.8 square feet of floor space per egg-laying hen. Cal. Code
11 Regs. Tit. 3, § 1350. Over the next decade, the law was further amended; in 2010,
12 the Legislature required that any shelled eggs sold in California come from animals
13 housed in compliance with the standards in Chapter 13.8 of the California Health
14 and Safety Code (i.e., the codified Proposition 2). *See* Cal. Health & Safety Code,
15 § 25996.

16
17 Most recently, California voters overwhelming approved Proposition 12 in
18 2018. Proposition 12 aimed to create new and stronger minimum requirements for
19 space afforded to egg-laying hens and again prohibited the sale of any eggs
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26 ¹ Both Proposition 2 and 12 also addressed the confinement of pregnant sows in gestation crates,
27 but for the sake of brevity and simplicity, only the aspects of the laws relevant to eggs and hens
28 will be reviewed here.

1 (including liquid eggs this time) in California that come from animals raised in
2 conditions that are not compliant with the measure’s upgraded minimum
3 requirements. Cal. Prop. 12 (2018), Sections 3-7 (amending Cal. Health & Safety
4 Code, §§ 25990-25993 and adding § 25993.1).

6 According to the “Analysis by the Legislative Analyst, Arguments for
7 Proposition 12, and Arguments Against Proposition 12,” presented to voters in the
8 2018 Voter Information Guide, Proposition 12 was intended to achieve three goals.
9 First, Proposition 12 aimed to end the cruel practice of confining egg-laying hens
10 in tiny cages their entire lives.² Second, Proposition 12 would eliminate “unsafe
11 “unsafe products from these abused animals from the California marketplace,”
12 thereby reducing “the risk of people being sickened by food poisoning and factory
13 farm pollution,” such as salmonella.³ Third, Proposition 12 was meant to help
14 family farmers by creating sensible standards designed to encourage and keep
15 family farmers in business.⁴ In other words, Proposition 12 was designed and
16 intended to improve the humaneness of California’s economy in multiple ways,
17 much like its earlier relative Proposition 2.
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24 ² 2018 Voter Initiative Guide, p. 70. California Sec’y of State, *Text of Proposed Laws:*
25 *California General Election, Tuesday November 6, 2018*, at 87,
26 <https://vig.cdn.sos.ca.gov/2018/general/pdf/top1.pdf#prop12>.

27 ³ *Id.*

28 ⁴ *Id.*

B. Proposed Intervenor.

The Center for a Humane Economy (the Center) is a 501(c)(3) nonprofit headquartered in Maryland and operating nationally. It is the first nonprofit of its kind, focusing specifically on influencing the conduct of corporations to forge a more humane economy. Its efforts include corporate engagement, advocacy campaigns, education, and research and analysis of business practices. In a society where consumers, investors, and stakeholders consistently report a preference for the humane treatment of animals, the Center works to make these desires for social responsibility a reality. As evidenced by the voters' decision to enact Proposition 12, factory farms, by their very nature, infect interstate and international commerce with unnecessary animal cruelty. The Center works to eliminate cruel factory farming practices, like keeping animals in tiny cages, by educating consumers about their choices in the marketplaces, championing forms of animal agriculture do not involve intensive confinement, and making corporations aware that consumers prefer eating animals raised in healthy and humane conditions.

Animal Wellness Action, a 501(c)(4) nonprofit headquartered in Washington, D.C., works to promote animal welfare by advocating for the passage and enforcement of laws that protect animals from cruelty. It champions policies that alleviate the suffering of all animals, including egg-laying hens. Through its staff, extensive network of members and supporters, and collaborating

1 organizations, Animal Wellness Action battles systemic forms of animal
2 exploitation by advocating for the passage of laws that will protect animals from
3 unnecessary cruelty, encouraging the enforcement of existing animal protection
4 laws, lobbying for the election of candidates who care about animal causes, and
5 building partnerships with groups, agencies, and other stakeholders.
6

7 **III. Argument**

8 **A. Proposed Intervenors are entitled to intervene as of right.**

9 The Ninth Circuit has adopted a four-part test to determine whether a
10 potential intervenor must be granted intervention under Federal Rule of Civil
11 Procedure 24(a): “(1) the motion must be timely; (2) the applicant must claim a
12 ‘significantly protectable’ interest relating to the property or transaction which is
13 the subject of the action; (3) the applicant must be so situated that the disposition
14 of the action may as a practical matter impair or impede its ability to protect that
15 interest; and (4) the applicant's interest must be inadequately represented by the
16 parties to the action.” *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1177
17 (9th Cir. 2011) (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993)).
18 Courts are to be “guided primarily by practical and equitable considerations” when
19 undergoing this analysis. *United States v. City of Los Angeles*, 288 F.3d 391, 397
20 (9th Cir. 2002) (quoting *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998)).
21 And courts are to construe Rule 24(a) “broadly in favor of proposed intervenors.”
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1 *Id.* (quoting *United States ex. rel. McGough v. Covington Techs. Co.*, 967 F.2d
2 1391, 1394 (9th Cir. 1992)).

3
4 **1. Proposed Intervenor’s motion is timely.**

5 Timeliness is determined by the totality of the circumstances facing would-
6 be intervenors, with a focus on three primary factors: “(1) the stage of the
7 proceeding at which an applicant seeks to intervene; (2) the prejudice to other
8 parties; and (3) the reason for and length of the delay.” *United States v. Alisal*
9 *Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004). In analyzing these factors, courts
10 should bear in mind that “[t]he crucial date for assessing the timeliness of a motion
11 to intervene is when proposed intervenors should have been aware that their
12 interests would not be adequately protected by the existing parties.” *Smith v.*
13 *Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (emphasis added).

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17 Proposed Intervenor’s motion for leave to intervene is timely, given the
18 procedural posture of the case and the laxity with which Plaintiff United States has
19 proceeded to prosecute its complaint. Plaintiff took weeks to properly serve
20 Defendants with the original complaint. *See* ECF Nos. 12, 34-38. Then, weeks
21 after successful service of the original complaint, Plaintiffs filed an amended
22 complaint just last week on September 12, ECF No. 47, which has not yet been
23 answered. On September 11th, the parties filed a proposed briefing schedule for
24 anticipated motion practice. ECF No. 48. But on September 12, 2025, the Court
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1 issued a minute order suspending Defendants’ deadline to respond to the amended
2 complaint. ECF No. 49. In this order, the Court stated it intended to discuss the
3 proposed briefing schedule after the September 22 hearing on pending motions to
4 intervene. ECF No. 49.

6 It is relevant that none of the parties have filed responsive pleadings to
7 challenge the legal sufficiency of Plaintiffs’ arguments. *See Sierra Club*, 995 F.2d.
8 at 1481 (intervention was timely because motion was made at the outset of
9 litigation before EPA had filed an answer). Thus, the intervention in this case will
10 occur at an early and acceptable stage of this litigation. As the case is still in its
11 infancy, there is no prejudice to other parties by allowing intervention.

14 After the Court issued its minute order on September 12, 2025, Proposed
15 Intervenors worked to organize, engage counsel, and fashion a strategy for this
16 significant proceeding. Proposed Intervenors expect to file subsequent motions and
17 briefs on the same schedule as Defendants, which will avoid prejudice and any
18 delay arising out of granting the motion to intervene.

21 **2. Proposed Intervenors have significant protectable interests**
22 **that may be impaired by result of this action.**

23 “[T]he interest test is primarily a practical guide to disposing of lawsuits by
24 involving as many apparently concerned persons as is compatible with efficiency
25 and due process.” *Wilderness Soc’y v. United States Forest Serv.*, 630 F.3d 1173,
26 1179 (9th Cir. 2011) (internal quotation marks and citations omitted). “Whether an
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1 applicant for intervention as of right demonstrates sufficient interest in an action is
2 a practical, threshold inquiry, and no specific legal or equitable interest need be
3 established.” *Nw. Forest Res. Council v. Glickman*, 82 F.3d 825, 837 (9th Cir.
4 1996) (quoting *Greene v. United States*, 996 F.2d 973, 976 (9th Cir. 1993))
5 (internal quotation marks and brackets omitted). Proposed intervenors need only to
6 show that their interest(s) are protectable under law and there is a connection
7 between those interests and the legal action at hand. *Citizens for Balanced Use v.*
8 *Montana Wilderness Assoc’n*, 647 F.3d 893, 897 (9th Cir. 2011).

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12 Courts have routinely found that public interest or advocacy groups have an
13 interest sufficient to meet Rule 24’s requirements when an action threatens the
14 survival of a policy or law that the organization supported or participated in its
15 passage or implementation. *Idaho Farm Bureau Fed’n v. Babbitt*, 58 F.3d 1392,
16 1397 (9th Cir. 1995); *see also Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 527
17 (9th Cir. 1983).

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19
20 Proposed Intervenors include, notably, the only national nonprofit dedicated
21 specifically to the push for more humane commerce and industry—the Center for a
22 Humane Economy. Edwards Decl. ¶ 4. As such, its members and supporters
23 include consumers and producers of animal products who wish and work for
24 animal-reliant industries to create their products using methods and means that
25 reduce animal suffering. *Id.* at ¶ 8. The Center’s advocacy and research touch on a
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1 variety of commercial industries, such as tourism, cosmetics, medicine, agriculture,
2 and recreation. *Id.* at ¶ 9.

3
4 Further, the founder of the Center for a Humane Economy and Animal
5 Wellness Action, Wayne Pacelle, has specialized knowledge and expertise in this
6 area, as Mr. Pacelle initiated Proposition 12 while in his previous role as President
7 and CEO of the Humane Society of the United States. *Id.* at ¶ 6. Mr. Pacelle was
8 also personally involved in the creation of Question 3. *Id.*

9
10 Proposed Intervenors have previously filed *amici curiae* briefs in *National*
11 *Pork Producers Council v. Ross*, 598 U.S. 356 (2023), the pork industry's
12 challenge to Proposition 12 that reached the United States Supreme Court.
13
14 Proposed Intervenors also filed *amici* briefs in both the Massachusetts District
15 Court and the First Circuit in challenges to Massachusetts' Question 3. *See*
16 *Triumph Foods LLC v. Campbell*, 742 F. Supp. 3d 63 (D. Mass. 2024), *appeal*
17 *docketed*, No. 24-1759 (1st Cir. Aug. 19, 2024). Proposed Intervenors also
18 participated in the California administrative notice and comment process during
19 rulemaking to implement Proposition 12. (Edwards Decl. ¶ 12). And finally, as
20 discussed below, initiated litigation against California over the state's failures in
21 proper implementation.
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3. Proposed Intervenorors are not adequately represented by Defendants.

In the Ninth Circuit, courts consider three factors when determining whether the interests of a prospective intervenor are already adequately represented: “(1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.” *Callahan v. Brookdale Senior Living Cmtys., Inc.*, 42 F.4th 1013, 1020 (9th Cir. 2022).

However, the burden of showing inadequacy is “minimal,” and the applicant need only show that representation of its interests by existing parties “may be” inadequate. *Sw. Ctr for Biological Diversity v. Berg*, 268 F.3d 810, 823 (9th Cir. 2001); *citing Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n. 10 (1972) (emphasis added). In determining the “adequacy of representation,” courts consider whether the interest of a present party is such that it will undoubtedly make all the intervenor’s arguments; whether the present party is capable and willing to make such arguments; and whether the intervenor would offer any necessary elements to the proceedings that other parties would neglect. *California v. Tahoe Reg’l Planning Agency*, 792 F.2d 775, 778 (9th Cir. 1986) (citation omitted). Each of

1 these factors weighs in favor of allowing the Proposed Intervenor to join this
2 litigation.

3
4 The history of Proposition 12 implementation reveals divergent interests
5 between Proposed Intervenor and the Defendant. In 2021, frustrated by both the
6 slow and inadequate nature of the measure’s implementation by the state, Proposed
7 Intervenor sued California in California state court. *Americans for Family*
8 *Farmers, et al. v. CDFA, et al.* Sacramento County Superior Court, Case No. 34-
9 2021-80003774. California had submitted their draft proposed regulations in May
10 2021, over two years after the passage of Proposition 12, for public review and
11 comment. As is required by state law, California prepared a standardized
12 regulatory impact analysis (SRIA) of the proposed regulations. Gov’t Code, sec.
13 11346.3, subd. (b). Among other obligations, SRIAs must assess the “benefits of
14 the regulation to the health and welfare of California residents, worker safety, and
15 the state’s environment.” Gov’t Code, sec. 11346.3, subd. (b)(1)(D).

16
17 Despite, however, the plain language of the legislative findings contained in
18 the Voter Information Guide, and in direct contravention of Californian voters’
19 intent in and rationale for passing Proposition 12, California stated that the
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1 proposed regulations would not “directly impact human health and welfare of
2 California residents, worker safety, or the State’s environment.”⁵
3

4 Proposed Intervenor had submitted comments on the proposed regulations
5 asking the California Department of Food and Agriculture to follow the law by
6 promulgating joint regulations with the California Department of Public Health
7 that aim to achieve all three aims of the voters in their approval of Proposition 12,
8 instead of just one. Edwards Decl. ¶ 12. Proposed Intervenor urged the state not to
9 neglect the public health and environmental harms caused by the intensive
10 confinement practices voters sought to remedy through their votes in favor of
11 Proposition 12. *Id.*
12
13

14 However, in the revisions to the proposed regulations had been released in
15 December 2021, California failed to remedy its earlier error, despite recognizing
16 that the SRIA’s statements conflicted with the legislative purpose of Proposition 12
17 as approved by the voters. As a result, Proposed Intervenor challenged this failure
18 of implementation in court. Edwards Decl. ¶ 12.
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21 Proposed Intervenor continued to pressure California due to California’s
22 continued delays in Proposition 12 implementation in other ways. For example,
23 Proposed Intervenor urged the state in writing in mid-2023 not to delay
24
25

26 ⁵ Initial Final Statement of Reasons, Dept. Food and Agric., Animal Health and Food Safety,
27 https://www.cdfa.ca.gov/AHFSS/pdfs/FSOR_Final_8.30.22.pdf, p. 7.
28

1 implementation any longer. *Id.* at ¶ 12. Not only may Proposed Intervenor’s
2 interests potentially diverge from Defendants’, as described above, but so too may
3 Proposed Intervenor’s present missing elements not addressed by the Defendants.
4

5 For one, Proposed Intervenor’s represent the connecting link between animal
6 welfare concerns rooted in morality, and those that arise from symbiotic interests
7 of commerce, economics, and public health. At base, Proposed Intervenor’s
8 organizational efforts are largely premised off the idea that the humane treatment
9 of animals and the commercial and health interests of humans are inextricably
10 linked and so where one goes, the other follows. *See* Edwards Decl. ¶¶ 3, 4.
12

13 Second, Proposed Intervenor’s members, supporters, and staff include
14 veterinarians. *See generally* Edwards Decl.; Harvilicz Decl. Of special note, these
15 include veterinarians with special expertise and knowledge of the public health and
16 safety ramifications of intensively confined animals in commercial industries.
17 Edwards Decl. ¶ 9. Indeed, Proposed Intervenor’s have continuously and repeatedly
18 exerted efforts and resources to educate the public about the public health impacts
19 of animal confinement in commerce and also to lobby for changes to laws to
20 address these negative impacts. *Id.* at ¶¶ 7, 9. This is true not only in the meat
21 sphere, but also in the “sport” (cockfighting and predator hunting) space and in
22 fashion (mink fur farming). *Id.* at ¶¶ 9, 10.
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1 As a result, Proposed Intervenors are particularly well-situated to
2 simultaneously address the intertwined public health, commercial, and humane
3 ethics rationales underlying Proposition 12.
4

5 **B. Proposed Intervenors also meet the standards for permissive**
6 **intervention.**

7 In the alternative, Proposed Intervenors readily meet the elements necessary
8 for permissive intervention under Federal Rule of Civil Procedure 24(b)(1). These
9 elements are “(1) an independent ground for jurisdiction; (2) a timely motion; and
10 (3) a common question of law and fact between the movant's claim or defense and
11 the main action.” *Freedom from Religion Found, Inc.*, 644 F.3d 836, 843 (9th Cir.
12 2011) (quoting *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 473 (9th Cir.
13 1992)). A court must also examine whether the permissive intervention would
14 cause undue delay or be prejudicial. *Perry v. Proposition 8 Off. Proponents*, 587
15 F.3d 947, 955 (9th Cir. 2009).
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19 On top of these, a court may (but is not required to) consider a variety of
20 other factors in its decision. These factors include “the nature and extent of the
21 intervenors’ interest,” “their standing to raise relevant legal issues,” “the legal
22 position they seek to advance[] and its probable relation to the merits of the case,”
23 and “whether intervention will prolong or unduly delay the litigation...”
24 *Flying Food Grp., LLC v. City of L.A.*, No. 2:23-cv-09146-SB-MRW, 2024 U.S.
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1 Dist. LEXIS 70568, at *6 (C.D. Cal. Jan. 29, 2024) (quoting *Callahan*, 42 F.4th at
2 1022).

3
4 As discussed above, this case is in its infancy and inclusion of Proposed
5 Intervenor will not lead to undue delay or prejudice to the other parties.

6 Additionally, Proposed Intervenor's claims and defenses share common questions
7 of law and fact with the main action. *Freedom from Religion Found*, 644 F.3d at
8 844. Specifically, Proposed Intervenor intend to set forth legal arguments refuting
9 the sufficiency of Plaintiff's claims in the Amended Complaint.
10

11
12 There is adequate support for this Court to find that the Proposed Intervenor
13 meet the standards for permissive intervention pursuant to FRCP 24(b)(1).

14 **IV. Conclusion**

15 For the reasons set forth above, Proposed Intervenor respectfully request
16 that the Court grant this motion to Intervene as of right pursuant to Rule 24(a), or
17 in the alternative, grant permissive intervention under Rule 24(b).
18

19 Dated: September 18, 2025

Respectfully submitted,

21
22 /s/ Jessica L. Blome

23 Jessica L. Blome
24 Cal. Bar No. 314898
25 GREENFIRE LAW, PC
26 2748 Adeline Street, Suite A
27 Berkeley, CA 94703
28 (510) 900-9502
jblome@greenfirelaw.com

1 Scott Edwards
2 NY Bar No. 3001575
3 Animal Wellness Action
4 611 Pennsylvania Ave., S.E. #136
5 Washington, D.C. 20003
6 (443) 865-3600
7 sedwards@animalwellnessaction.org
8 *Pro hac vice application forthcoming*

9 *Attorneys for Proposed Intervenors*
10 *The Center for a Humane Economy*
11 *and Animal Wellness Action*
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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Proposed Defendant-Intervenors,
certifies that this brief contains 3,501 words, which complies with the word limit of
L.R. 11-6-1.

Dated: September 18, 2025

/s/ Jessica L. Blome

Jessica L. Blome